APPEAL NO. 032994
FILED JANUARY 6, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on August 13, 2003. The hearing officer determined that the appellant (claimant) was within the course and scope of his employment at the time he was involved in a motor vehicle accident (MVA) on _____. The respondent (carrier) appealed, asserting that the hearing officer had not correctly applied the law to the facts. By our decision in Texas Workers' Compensation Commission Appeal No. 032487, decided October 16, 2003, we remanded this case to the hearing officer to consider the requirement that the claimant be "in the furtherance of the employer's business at the time of the injury." The same hearing officer considered the evidence again, without the need for an additional hearing, and determined that the claimant was not within the course and scope of his employment at the time he was involved in a MVA on _____. The claimant appeals the new decision by the hearing officer. There is no response in the file from the carrier to the claimant's appeal of the new decision.

DECISION

Affirmed.

The facts and law applicable to this case were set out in our prior decision and will not be repeated here. The hearing officer reviewed the case law cited in our previous decision and applied it to the facts that she found, stating that "the evidence unequivocally indicates that Claimant was traveling between his home and his place of employment, and was not pursuing an errand for the Employer's benefit, at the time of the accident in question." By this analysis of the evidence, the hearing officer is clearly determining that the claimant fell within the ambit of the "coming and going" cases, and was not furthering the employer's business at the time of the MVA.

The burden is on the claimant to prove that an injury occurred within the course and scope of employment. Service Lloyds Insurance Co. v. Martin, 855 S.W.2d 816 (Tex. App.-Dallas 1993, no writ); Texas Employers Insurance Association v. Page, 553 S.W.2d 98 (Tex. 1977). We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion for that of the hearing officer.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **HARTFORD UNDERWRITERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

_____
Michael B. McShane
Appeals Panel
Manager/Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Edward Vilano
Appeals Judge